

# EXHIBIT 2

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**From:** Sheasby, Jason  
**Sent:** Thursday, October 31, 2024 12:04 PM  
**To:** Bryan Cannon; Tezyan, Michael; #Netlist-Samsung293; jtruelove@mckoolsmith.com  
**Cc:** FISH SERVICE Samsung/Netlist 22cv00293; ~Smith, Melissa  
**Subject:** Re: Netlist v. Samsung-293 | Witnesses

Bryan:

We are at an impasse. We will be filing our motion for sanctions.

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**From:** Bryan Cannon <cannon@fr.com>  
**Date:** Tuesday, October 29, 2024 at 11:22 AM  
**To:** Jason Sheasby <JSheasby@irell.com>, "Tezyan, Michael" <mtezyan@irell.com>, #Netlist-Samsung293 <Netlist-Samsung293@irell.com>, "jtruelove@mckoolsmith.com" <jtruelove@mckoolsmith.com>  
**Cc:** FISH SERVICE Samsung/Netlist 22cv00293 <FISHSERVICESamsung/Netlist22cv00293@fr.com>, Melissa ~Smith <melissa@gillamsmithlaw.com>  
**Subject:** RE: Netlist v. Samsung-293 | Witnesses

Jason,

Netlist's refusal to tell us its "will call" list as to the rebuttal case prejudices Samsung in a way that Samsung's identification of "will call" witnesses with a reservation of rights to seek leave to dismiss witnesses does not. In particular, unlike Samsung who has identified its 8 will call witnesses, Netlist has not told us if it will call *any* witnesses in its rebuttal case, and has instead purported to reserve the right to call any of Samsung's 8 will call witnesses and any of Netlist's 3 will call witnesses, thereby forcing Samsung to reserve time for 11 witnesses for the rebuttal case. Netlist is required to at least tell us its intentions for its rebuttal case.

To that end, if Netlist files an unwarranted motion seeking to "enforce" Netlist's interpretation of the Court's directive at the pre-trial conference, then Samsung will cross move to prevent Netlist from putting on any rebuttal witnesses based on Netlist's refusal to identify a single "will call" witness for its rebuttal case.

As to Samsung's witnesses, I reiterate that Samsung fully intends to call all of its "will call" witnesses—they will all be in Marshall for the trial.

Please advise if Netlist plans to move forward with such motions practice, and if so, what time(s) you are available tomorrow to discuss.

Thanks,  
Bryan

**Bryan J Cannon**  
Associate ■ Fish & Richardson P.C.

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**From:** Sheasby, Jason <[JSheasby@irell.com](mailto:JSheasby@irell.com)>  
**Sent:** Monday, October 28, 2024 6:20 PM  
**To:** Bryan Cannon <[cannon@fr.com](mailto:cannon@fr.com)>; Tezyan, Michael <[mtezyan@irell.com](mailto:mtezyan@irell.com)>; #Netlist-Samsung293 <[Netlist-Samsung293@irell.com](mailto:Netlist-Samsung293@irell.com)>; [jtruelove@mckoolsmith.com](mailto:jtruelove@mckoolsmith.com)  
**Cc:** FISH SERVICE Samsung/Netlist 22cv00293 <[FISHSERVICESamsung/Netlist22cv00293@fr.com](mailto:FISHSERVICESamsung/Netlist22cv00293@fr.com)>; [melissa@gillamsmithlaw.com](mailto:melissa@gillamsmithlaw.com)  
**Subject:** Re: Netlist v. Samsung-293 | Witnesses

I should add one modification. We also reserve the right to call any of the witnesses you are bringing to the trial live in our rebuttal case.

Thanks  
JS

From: Jason Sheasby <[JSheasby@irell.com](mailto:JSheasby@irell.com)>  
Date: Monday, October 28, 2024 at 2:10 PM  
To: Bryan Cannon <[cannon@fr.com](mailto:cannon@fr.com)>, "Tezyan, Michael" <[mtezyan@irell.com](mailto:mtezyan@irell.com)>, #Netlist-Samsung293 <[Netlist-Samsung293@irell.com](mailto:Netlist-Samsung293@irell.com)>, "[jtruelove@mckoolsmith.com](mailto:jtruelove@mckoolsmith.com)" <[jtruelove@mckoolsmith.com](mailto:jtruelove@mckoolsmith.com)>  
Cc: FISH SERVICE Samsung/Netlist 22cv00293 <[FISHSERVICESamsung/Netlist22cv00293@fr.com](mailto:FISHSERVICESamsung/Netlist22cv00293@fr.com)>, Melissa ~Smith <[melissa@gillamsmithlaw.com](mailto:melissa@gillamsmithlaw.com)>  
Subject: Re: Netlist v. Samsung-293 | Witnesses

Bryan:

We will not call any live witnesses in rebuttal other than the three designated.

We will move for the sanction requested. It does not require a lead to lead meet and confer but if you would like to discuss live we will agree to this.

JS

From: Bryan Cannon <[cannon@fr.com](mailto:cannon@fr.com)>  
Date: Monday, October 28, 2024 at 2:02 PM  
To: "Tezyan, Michael" <[mtezyan@irell.com](mailto:mtezyan@irell.com)>, #Netlist-Samsung293 <[Netlist-Samsung293@irell.com](mailto:Netlist-Samsung293@irell.com)>, "[jtruelove@mckoolsmith.com](mailto:jtruelove@mckoolsmith.com)" <[jtruelove@mckoolsmith.com](mailto:jtruelove@mckoolsmith.com)>  
Cc: FISH SERVICE Samsung/Netlist 22cv00293 <[FISHSERVICESamsung/Netlist22cv00293@fr.com](mailto:FISHSERVICESamsung/Netlist22cv00293@fr.com)>, Melissa ~Smith <[melissa@gillamsmithlaw.com](mailto:melissa@gillamsmithlaw.com)>  
Subject: RE: Netlist v. Samsung-293 | Witnesses

Michael,

There is no dispute about which to file a motion. Samsung is planning on calling all of the witnesses on its will call list—all will be present at the trial. Samsung reiterates that because Netlist will put its case on first, Samsung cannot know whether any witness may ultimately be rendered unnecessary.

By contrast, Netlist's own witness list submission (attached) purports to "reserve[]" the right to call the foregoing or other live witnesses in its rebuttal case, depending on Samsung's presentation of evidence." Thus, Samsung is not on notice as to whether Netlist "will call" any other live witnesses. Therefore, it is Netlist who is violating the Court's order. All of Netlist's complaints in the motion attached to your email apply with equal (if not more) force as to Netlist's reserving the right to call other live witnesses in its rebuttal case, depending on Samsung's presentation of evidence.

Both parties recognize that situations may arise at trial that will impact the rebuttal witnesses that the parties "will call." Should any Samsung witness ultimately be unnecessary, Samsung will seek leave of the Court to deviate in any way from the final will call list, just as Netlist will have to do in order to add "other live witnesses in its rebuttal case." The Court's directive to both parties was to be more cooperative and reduce unwarranted disputes. Netlist's motion creates a dispute where there is none and is inconsistent with the Court's guidance.

To the extent you still wish to discuss this matter by phone, please provide times on Wednesday and Thursday this week. Should Netlist decide to move for relief as to Samsung's witness list, Samsung will cross move to prevent Netlist from calling "other live witnesses in its rebuttal case." Please confirm that lead counsel will participate. In addition, please also be prepared to discuss Netlist's untimely third supplemental deposition designations, and provide your position on Samsung's motion to strike the same (as Netlist has not responded to our inquiries about whether Netlist will comply with the rules and seek leave to modify its deposition designations).

Best,  
Bryan

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From: Tezyan, Michael <[mtezyan@irell.com](mailto:mtezyan@irell.com)>  
Sent: Monday, October 28, 2024 11:49 AM  
To: Bryan Cannon <[cannon@fr.com](mailto:cannon@fr.com)>; #Netlist-Samsung293 <[Netlist-Samsung293@irell.com](mailto:Netlist-Samsung293@irell.com)>;  
[jtruelove@mckoolsmith.com](mailto:jtruelove@mckoolsmith.com)  
Cc: FISH SERVICE Samsung/Netlist 22cv00293 <[FISHSERVICESamsung/Netlist22cv00293@fr.com](mailto:FISHSERVICESamsung/Netlist22cv00293@fr.com)>;  
[melissa@gillamsmithlaw.com](mailto:melissa@gillamsmithlaw.com)  
Subject: RE: Netlist v. Samsung-293 | Witnesses

Counsel,

Attached is a draft of the motion we intend to file informing the Court of Samsung's violation of the Court's order on final live witness lists. Please let us know your availability today to meet and confer on Netlist's motion.

Thanks,  
Michael

Michael Tezyan  
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From: Tezyan, Michael <[mtezyan@irell.com](mailto:mtezyan@irell.com)<<mailto:mtezyan@irell.com>>>  
Sent: Thursday, October 24, 2024 11:07 AM  
To: Bryan Cannon <[cannon@fr.com](mailto:cannon@fr.com)<<mailto:cannon@fr.com>>>; #Netlist-Samsung293 <[Netlist-Samsung293@irell.com](mailto:Netlist-Samsung293@irell.com)<<mailto:Netlist-Samsung293@irell.com>>>;  
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Melissa <[melissa@gillamsmithlaw.com](mailto:melissa@gillamsmithlaw.com)<<mailto:melissa@gillamsmithlaw.com>>>

Subject: RE: Netlist v. Samsung-293 | Witnesses

Bryan,

As Samsung is aware, the Court instructed the parties to provide a list of witnesses they are “going to actually call.” PTC Vol. 1 Tr. 14:11-15. Your email below confirms that Samsung violated the Court’s order. Now that you have Netlist’s final witness list, please let us know which expert and fact witnesses Samsung is actually going to call live. Otherwise, we intend to file a motion requesting that the Court cut Samsung’s allotted trial time by 30 minutes for each witness Samsung has on its “will call” list that Samsung ultimately does not call. Netlist is prejudiced by having to reserve time for cross-examination of witnesses Samsung ultimately will not call.

Best,  
Michael

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From: Bryan Cannon <[cannon@fr.com](mailto:cannon@fr.com)<<mailto:cannon@fr.com>>>  
Sent: Thursday, October 24, 2024 7:18 AM  
To: Tezyan, Michael <[mtezyan@irell.com](mailto:mtezyan@irell.com)<<mailto:mtezyan@irell.com>>>; #Netlist-Samsung293 <[Netlist-Samsung293@irell.com](mailto:Netlist-Samsung293@irell.com)<<mailto:Netlist-Samsung293@irell.com>>>; [jtruelove@mckoolsmith.com](mailto:jtruelove@mckoolsmith.com)<<mailto:jtruelove@mckoolsmith.com>>>  
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Subject: RE: Netlist v. Samsung-293 | Witnesses

Michael,

Samsung has fully complied with the Court’s order. Samsung’s witness list reflects all witnesses it intends to call live to rebut the evidence Samsung anticipates that Netlist will present at trial and to support Samsung’s affirmative defenses in the time that the Court has allotted. Samsung will not move any witness from the “may call” list to the “will call” list. However, because Netlist will put its case on first, depending on the evidence Netlist ultimately introduces, some of these witnesses may ultimately be rendered unnecessary. If so, we will ask the Court for permission to release them. For example, because Netlist did not list Mr. Groehn, we are evaluating whether to call Dr. Perryman, and we will promptly inform you. Note, however, that Samsung objects to Netlist’s presentation of a regression analysis through Mr. Kennedy, and maintains that Dr. Groehn should attend trial and testify live if Netlist wishes to rely on his regression analysis. Please advise.

Best,  
Bryan

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From: Tezyan, Michael <[mtezyan@irell.com](mailto:mtezyan@irell.com)<<mailto:mtezyan@irell.com>>>  
Sent: Wednesday, October 23, 2024 7:48 PM  
To: Bryan Cannon <[cannon@fr.com](mailto:cannon@fr.com)<<mailto:cannon@fr.com>>>; #Netlist-Samsung293 <[Netlist-Samsung293@irell.com](mailto:Netlist-Samsung293@irell.com)<<mailto:Netlist-Samsung293@irell.com>>>; [jtruelove@mckoolsmith.com](mailto:jtruelove@mckoolsmith.com)<<mailto:jtruelove@mckoolsmith.com>>  
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Subject: RE: Netlist v. Samsung-293 | Witnesses

[This email originated outside of F&R.]

Counsel,

Samsung's identification of witnesses is a clear violation of the Court's order at the pre-trial conference requiring the parties to provide "a final live witness list identifying the witnesses that each party are going to actually call." PTC Vol. 1 Tr. 14:11-15. If Samsung does not provide a list of witnesses it is actually going to call live by 5 pm CT tomorrow, Netlist will plans to inform the Court of Samsung's violation of its order.

Best,  
Michael

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From: Bryan Cannon <[cannon@fr.com](mailto:cannon@fr.com)<<mailto:cannon@fr.com>>>  
Sent: Wednesday, October 23, 2024 10:00 AM  
To: #Netlist-Samsung293 <[Netlist-Samsung293@irell.com](mailto:Netlist-Samsung293@irell.com)<<mailto:Netlist-Samsung293@irell.com>>>; [jtruelove@mckoolsmith.com](mailto:jtruelove@mckoolsmith.com)<<mailto:jtruelove@mckoolsmith.com>>  
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Subject: Netlist v. Samsung-293 | Witnesses

Counsel:

Pursuant to the § N, ¶ (12) of the Pre-Trial Order (Dkt. 777) and the Court's order at the Pre-Trial Conference (PTC Vol. 1 Tr. 14:11-18), Samsung identifies the following witnesses that it anticipates it will call live (in alphabetical order by last name):

Samsung Expert Witnesses

- John Halbert
- Lauren Kindler

· Joseph McAlexander

· Ray Perryman

Samsung Fact Witnesses

\* Joseph Calandra

\* Hyun Ki Ji

\* Sung Joo Park

\* Junseon Yoon

The witnesses that Samsung ultimately calls live will depend on Netlist's trial evidence and presentation. Samsung reserves the right not to call one or more of the foregoing witnesses. Should any changes arise in the course of the trial (e.g., circumstances resulting in the narrowing of the above witness list, or necessitating additional witnesses listed in Samsung's witness list, Dkt. 694-4), Samsung will promptly inform Netlist.

In addition, Samsung reserves the right to present deposition designations in accordance with the procedures set forth in the Pre-Trial Order and the Court's order at the Pre-Trial Conference.

Best,  
Bryan

Bryan J Cannon

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